

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: August 15, 2011
POSITION: Oppose

BILL NUMBER: AB 202
AUTHOR: J. Brownley

BILL SUMMARY: Local Educational Agencies: Reimbursable Mandates

This bill would make a number of significant changes to the K-12 mandate process, including: (1) requiring binding arbitration, with the Executive Officer of the Fiscal Crisis and Management Assistance Team (FCMAT) as the arbiter, for reasonable reimbursement methodology (RRM) negotiations after the Commission on State Mandates (COSM) has determined that an impasse has occurred between the Department of Finance (Finance) and affected local education agencies (LEAs); (2) excluding community colleges from the definition of an LEA for purposes of participation in the revised RRM process; (3) allowing a K-12 LEA to designate another K-12 LEA to represent them in the development of parameters and guidelines, the development of statewide cost estimates, and in negotiating RRMs; (4) requiring the COSM to report to the Legislature (within 30 days of filing) any mandate claim that cites regulations as the source for the mandate; and (5) requiring the State Controller's Office (SCO) to report to the Legislature (within 30 days) any determination made by the SCO that a given mandate claim will exceed its statewide cost estimate by more than 25 percent.

The bill would also require the Legislative Analyst's Office (LAO) to report during every two-year legislative session on all currently claimed state mandates for which no appropriation is provided. Specifically, the LAO would have to provide a summary of the mandate, including its statutory source, as well as fiscal information on the mandate, including claims paid to date, unpaid claims, pending claims, and the history of appropriations for that particular mandate. Further, the LAO would be required to provide recommendations on whether each mandate should be amended, repealed or remain unchanged.

FISCAL SUMMARY

By allowing the COSM to declare an impasse in negotiations between Finance and affected LEAs, and by requiring the FCMAT Executive Officer to make an independent and binding ruling on the effective RRM, this bill could result in additional Proposition 98 General Fund costs in the millions to tens of millions to the extent that binding arbitration results in enhanced reimbursement determinations for local districts.

The SCO and COSM indicate that the reporting requirements contained in this bill for their organizations would impose minor and absorbable costs.

COMMENTS

Finance is opposed to this bill for the following reasons:

- By allowing the COSM to declare an impasse in negotiations between Finance and affected LEAs, and by requiring the FCMAT Executive Officer to make an independent and binding ruling on the effective RRM, this bill could result in additional Proposition 98 General Fund costs in the millions to tens of millions to the extent that binding arbitration results in enhanced reimbursement determinations for local districts.

Analyst/Principal (0340) T. Todd	Date	Program Budget Manager Nick Schweizer	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS	Form DF-43 (Rev 03/95 Buff)
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- This bill runs contrary to the recent reforms to the RRM process that are all predicated on a voluntary and nonbinding process for simplifying reimbursements to LEAs.
- By condensing the amount of time allowed for Finance and LEAs to reach an agreement on an RRM, this bill may not allow for a sufficient examination of all pertinent issues necessary to determine a RRM, and may in fact provide a disincentive to complete the negotiations, and instead encourage third party determinations of mandated cost liability.

In 1979 voters passed Proposition 4, which added a requirement to the California Constitution that local governments be reimbursed for new programs or higher levels of service the state imposes on them. A state policy is considered a reimbursable mandate if it was freely imposed by a state government upon local agencies or if it requires local agencies to pay for a new governmental program, higher level of service, or cost share for a state-local program. Exemptions to this rule include:

- Policies created before 1975.
- Enacted upon local agency request.
- Defines a crime or penalty.
- Establishes voluntary provision—or requirement for voluntary program.
- Possible to pay with fees, offsetting savings, or designated state funds.
- Imposed upon a type of agency that did not levy a property tax.
- Established to implement a voter/federal requirement.

In response to the passage of Proposition 4, the Legislature created the COSM. The COSM is tasked with the responsibility to hear and decide upon claims submitted by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Article XIII B, section 6 of the California Constitution.

Currently, there are a total of 38 activities that qualify as annual reimbursable mandates for school districts, and 14 that apply to community college districts. There are seven additional mandates that apply to both segments. A subset of these activities also applies to other local government entities, such as cities and counties.

Chapter 890, Statutes of 2004, AB 2865 (Laird) was enacted to simplify the mandate claiming process and reduce the number of audits. Chapter 890 authorized the COSM to adopt a “reasonable reimbursement methodology” for state mandates. This methodology was intended to allow the utilization of unit costs based upon a representative local sample, rather than the reliance on detailed local claims.

Chapter 329, Statutes of 2007, AB 1222 (Laird) provided the following reforms to the mandates process:

- Revised the definition of a RRM to remove requirements for providing evidence of actual costs for 50 percent of eligible claimants; base costs on a representative sample of eligible claimants; and require consideration of variations in local costs.
- Provided for joint development of an RRM. Allows Finance and local agencies to develop a funding methodology and statewide cost estimates for adoption by the COSM.
- Allowed Finance and local agencies to jointly request the Legislature declare a statute a state mandate, approve a funding methodology, and appropriate funds based on the methodology.

In December 2008, a superior court found the state’s practice of deferring education mandates unconstitutional and ordered the state to fully fund mandated programs in the future. The state sought to overturn this decision, but the ruling was recently upheld by the 4th District Court of Appeal in San Diego.

Additionally, as part of the actions contained in the Budget Act of 2010-11, the Legislature directed the LAO to convene a working group to consider the future of school district and community college district

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mandates. The group was required to develop recommendations by March 15, 2011, regarding potential reforms to current education mandates process, as well as recommendations on specific mandates, including whether to preserve, modify, or eliminate particular mandates. The LAO presented a report on the workgroup's deliberations to the education budget subcommittees of the Legislature in February of this year. Although the LAO and Finance were able to come to an agreement on a mixture of broader and more specific reforms, consensus was not achieved with other group members. In response, both houses of the Legislature rejected the reform concepts forwarded jointly by the LAO and Finance, citing the lack of consensus achieved in the workgroup, as well as their strong preference that any changes to the mandates process be vetted and approved through policy committees of the Legislature.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							
	LA	(Dollars in Thousands)							
	CO	PROP							Fund
	RV	98	FC	2011-2012	FC	2012-2013	FC	2013-2014	Code
8885/Comm St Mndt	SO	No	-----	See Fiscal Summary	-----	-----	-----	-----	0001
0840/Controller	SO	No	-----	See Fiscal Summary	-----	-----	-----	-----	0001
6110/Dept of Educ	LA	Yes	-----	See Fiscal Summary	-----	-----	-----	-----	0001